

Petitioner's Instructions for Expungement (Sealing) of Criminal Records

Please read all instructions before filling out paperwork. You will need to make additional copies if you are seeking to expunge more than one file.

- **A Petition for Expungement is a complicated procedure.**
- **If you have any questions or are in need of more assistance, you should contact an attorney for advice.**
- **The court administrator's office cannot give you legal advice.**
- **A video is available on the internet by going to: www.mncourts.gov**
 - **Click on Self-Help Center, then**
 - **Criminal Expungement, then**
 - **"What is Criminal Expungement"**
- **A Step by Step Tutorial is also available:**
 - **Click on Self-Help Center, then**
 - **Criminal Expungement, then**
 - **Forms - Criminal Expungements, then**
 - **Scroll down to "Step by Step Tutorial"**

EXPUNGEMENT

This statutory expungement remedy is limited to a court order sealing records and prohibiting disclosure of their existence or their opening except under court order or statutory authority; nothing in the law authorizes destruction of records or their return to the subject. A Judge of the District Court must hear this petition.

EXPUNGEMENT OR SEALING OF A RECORD-WHAT IT MEANS

Once sealed, a record will not be available to the general public. However, Minn. Stat. §609A.03, subd. 7, states that law enforcement agencies, prosecution or correctional authorities may seek an order signed by a judge to re-open a sealed case for the purpose of a criminal investigation, prosecution or sentencing. The records may be opened for the purposes of evaluating a prospective employee of a criminal justice agency, without a court order, pursuant to Minn. Stat. §609A.03, subd. 7.

YOU MAY QUALIFY FOR AN EXPUNGEMENT IF:

- The charges were dismissed, you were found not guilty, or the case did not otherwise result in a conviction.
- You were charged with a controlled substance offense - the proceedings have been dismissed and discharged.
- You were a juvenile prosecuted as an adult.
- The Board of Pardons has granted you a pardon extraordinary.

If there is no court file (the prosecutor did not file formal charges or the grand jury did not file an indictment) and you've had a clean record for the past 10 years, a petition to the court is not necessary to expunge your arrest record. You should contact the arresting agency and/or the BCA (Minn. Stat. §299C.11(b)).

If your situation does not meet the criteria noted above, you may still be able to request that the court consider expunging your record by virtue of the court's inherent judicial power. As each circumstance is unique, there are no prepared forms for this purpose. You should see an attorney for advice and preparation of appropriate documents to have the court consider your request. An order issued under such authority may provide only for expungement of the record held by state courts and may not necessarily expunge records held by state or local agencies.

PROCEDURES FOR EXPUNGEMENTS

A. COMPLETELY FILL OUT A SEPARATE PETITION AND ORDER FOR EACH CASE YOU WANT EXPUNGED:

1. NOTICE OF HEARING AND PETITION FOR EXPUNGEMENT

You must fill out this document completely and sign your name in front of a notary public (or deputy court administrator). IT IS MANDATORY that you list all prior and pending criminal charges in this or any other state on this petition as well as any stays of adjudication, continuances for dismissal, or pretrial diversions in any jurisdiction. If you are unsure about your court records, most Minnesota counties have public access terminals where you may look up your case information. The Minnesota Bureau of Criminal Apprehension (BCA) will provide a printed record for a fee. You may contact them at 651-642-0670 for more information.

Obtain a hearing date from the court administrator's office to be inserted in the notice. This date must be more than 60 days from the date notice is mailed plus 3 days for mailing.

2. PROPOSED ORDER TO EXPUNGE CRIMINAL RECORDS

You must complete a separate order for each case that you want expunged. There are two types of orders: Order Sealing Record/Conviction (if you were convicted of the offense) or Order Concerning Sealing of Records/No Conviction. Use the one appropriate to your situation.

3. REQUEST FOR WAIVER OF FILING FEE—IN FORMA PAUPERIS (IFP)

If you will be seeking waiver of the filing fee, additional papers need to be completed. You will have to provide financial information to have the court determine whether you qualify to have the fee waived. The fee or the order waiving the fee must be submitted when the petition is filed. You will need to ask for a waiver form (IFP) specifically.

B. MAKE COPIES OF THE COMPLETED FORMS YOU WILL NEED FOR SERVICE ON EACH AGENCY AND THEIR ATTORNEYS.

Minn. Stat. §609A.03, subd. 3 requires that a petition must be served on ALL state and local agencies and their attorneys whose records would be affected by the proposed order; for example, the Minnesota Bureau of Criminal Apprehension, the Attorney General's Office, the local police department, the prosecuting attorney, the sheriff's department, county attorney, department of corrections (probation).

1. Notice of Hearing and Petition(with the scheduled hearing date completed)
2. The unsigned proposed Order you are seeking to have the judge issue.

C. PROCESS FOR SERVICE

You are responsible to see that service is done properly. Court staff cannot serve the documents for you. Service needs to be done by a disinterested adult third party (someone not related to the case). That person must mail a copy of all required documents and complete the Affidavit of Service and sign in front of a notary or a deputy court administrator. Service must be complete at least 63 days prior to the scheduled hearing date.

D. FILING THE PAPERWORK WITH DISTRICT COURT

After copies of the documents have been served on all required agencies, the “Original” Notice of Hearing and Petition for Expungement, the proposed order along with written proof (Affidavit of Service) that all agencies have been served must be filed with the court administrator’s office. File your papers as soon as you have completed the notification process.

A civil filing fee is required when filing the documents (check with the court administrator in the county you are filing for correct fee amount) unless you are unable to pay and obtain an order from the court waiving the fee (you must complete and file an Affidavit for Proceeding In Forma Pauperis). No filing fee is required if you were not convicted in the case. Inform court personnel that you were not convicted and the fee is waived by statute (Minn. Stat. §609.03, subd. 1).

E. THE COURT HEARING

You must appear at the hearing. Bring your copies of the documents along with you to court for your own reference. The original documents should already be in the court file.

At the hearing, the Judge will review your petition and any attachments you have submitted. The Judge will also consider any information presented by the prosecutor, any of the various law enforcement agencies and the victim. The victim has the right to submit an oral or written statement to the court. The Judge may or may not grant the expungement. The Judge may sign the proposed order that you have provided (granting or denying your request), or may prepare his or her own order.

The Judge may deny expungement if your request does not meet the requisite qualifications even if no one objects.

When the order is signed, the court administrator's office will send a copy of the order to all the agencies named in the order to receive notice. If your request was granted, these agencies have 60 days to appeal the order. Your record remains public during this period and while any appeal is pending. If no appeal is filed, the record will be sealed 60 days after the filing of the order. It is a good idea to obtain a certified copy of this order for your own records. A certified copy fee will be charged unless you have an in forma pauperis (IFP) order.

A petition for expungement is a complicated procedure.

If you have any questions or are in need of more detailed assistance, you should contact an attorney for advice.

The court administrator’s office cannot give you legal advice.

Addresses of Departments that need to be served

MN Bureau of Criminal Apprehension
CJIS-CCH-Court Orders/Petitions
1430 Maryland Avenue East
St Paul, MN 55106

Hennepin County Sheriff's Office
PSF – Records Manager
401 South 4th Avenue # 100
Minneapolis, MN 55415

Public Safety, Office of the
Minnesota Attorney General
445 Minnesota Street Suite 1800
St. Paul, MN 55101

Hennepin County Attorney's Office
Attention: Criminal Records
300 South 6th Street C-2100
Minneapolis., MN 55487

Hennepin County Department of Corrections
300 So 6th Street A-1100
Minneapolis, MN 55487

For Minneapolis cases these two departments need to be served

Attn: Criminal Division-Expungement
Minneapolis City Attorney
City Hall, Room 210
350 S. 5th Street
Minneapolis, MN 55415

Attention: Records
Minneapolis Police Department
350 South 5th Street Room 31
Minneapolis, MN 55415

For St Anthony cases these two departments need to be served

Steven P. Carlson
Foster, Ojile, Wentzell & Brever, LLC
2855 Anthony Lane So #201
St Anthony, MN 55418

Attention: Records
St Anthony Police Department
3301 Silver Lake Road NE
St Anthony, MN 55418

If your case is **NOT A MINNEAPOLIS OR ST ANTHONY CASE** you will need to use the appropriate address for the City Attorney Office and the Police Department who handled your case. You can contact the following Division for the appropriate addresses.

| | | |
|----------------------------|--|----------------------------|
| <u>Division II</u> | <u>Brookdale District Court</u> | <u>763-569-2799</u> |
| <u>Division III</u> | <u>Ridgedale District Court</u> | <u>952-541-7000</u> |
| <u>Division IV</u> | <u>Southdale District Court</u> | <u>952-830-4877</u> |

County of Hennepin

| | |
|--------------------|----------|
| Judicial District: | Fourth |
| Court File Number: | |
| Case Type: | Criminal |

State of Minnesota,

Plaintiff

vs.

**Notice of Hearing and
Petition for Expungement**

(Sealed Records)

MS 609A.03

Or

Inherent Authority

Defendant/Petitioner

Notice of Hearing

Notice To Law Enforcement/Prosecutor: Any objection to expungement in this case shall be filed with the court as soon as possible, and within 60 days. This matter is scheduled for hearing on _____ (date) at _____; at Hennepin County Government Center, 300 South 6th Street, Minneapolis, Minnesota. (time)
The day of the hearing, go to the Court Information Desk on the Public Service Level of the Government Center to find out which courtroom the Criminal Expungement Calendar is in. You must be in the courtroom by the scheduled start time.

Petition for Expungement

1. I state under oath that I am petitioning the court for expungement (sealing) of a criminal record.
2. My full name, and all other legal names or aliases I have been known as, are:

3. My date of birth is: _____

4. The following are all of the addresses I have lived at since the date of the offense for which I am seeking expungement: (street address, city, state) _____

5. I am seeking expungement because (include whether expungement is sought for employment or licensure purposes, the statutory or other legal authority under which expungement is sought, and why expungement should be granted): _____

6. My criminal record including all charges, convictions, stays of adjudication or imposition of sentence and pending actions for misdemeanors, gross misdemeanors or felonies in this state, another state, federal court, or a foreign country, whether the conviction occurred before or after the offense for which expungement is sought, consists of:
- | Case# | County-State | Type of Charge | Date of Offense | Conviction (Y/N) | Date (If Yes) |
|-------|--------------|----------------|-----------------|------------------|---------------|
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7. I have no criminal records, other than listed at #6, in this state or elsewhere.
8. All prior requests for expungement, pardon or sealing of a criminal record, whether for this offense or for any other offense, whether granted or not, that I have made include: _____

9. I qualify for an expungement because:

- ☐ A criminal case against me for a controlled substance violation has been dismissed and the proceedings have been discharged (use Order Sealing Record/Conviction);
- ☐ I was certified or referenced for prosecution as an adult for a crime I committed when I was a juvenile (use Order Sealing Record/Conviction);
- ☐ A criminal matter was resolved in my favor (use Order Concerning Sealing of Records/No Conviction);
- ☐ I was convicted but I have rehabilitated myself. The benefit to me outweighs the disadvantage to the public and the burden on the court (use Order Sealing Record/Conviction).

10. The details of the offense I want to expunge are: Case # _____ Jurisdiction/City
where the offense occurred: _____ Type of Offense:
_____ Date of Offense: _____

This was a ☐ conviction or a ☐ dismissal. Date of conviction or dismissal: _____

11. The names of the victims in this case are: _____
_____ Or, ☐ there were no identifiable victims.

12. There ☐ is ☐ is not a current or prior order for protection, restraining order or other no-contact order prohibiting me from contacting the victims (attach copies of any orders to petition).

13. Since conviction of this offense, I have taken the following steps toward personal rehabilitation, including treatment, work, or other personal history: _____

Or, ☐ there was no conviction for this offense.

Dated

Signature (*Sign only in front of notary public or court administrator.*)

Sworn/affirmed before me this

Name: _____

_____ day of _____,
_____.

Address: _____

City/State: _____

Zip Code: _____

Notary Public \ Deputy Court Administrator

Telephone: _____

State of Minnesota**District Court**

County of Hennepin

Judicial District: Fourth

Court File Number: _____

Case Type: Criminal**Affidavit of Service**

STATE OF MINNESOTA)

COUNTY OF _____)

(County where Affidavit Signed)

I, _____ (Name of person who mailed the documents and someone other than yourself), being duly sworn upon oath, state that on _____, I served the attached documents (Notice of Hearing and Petition for Expungement and Proposed Order) by mailing a true and correct copy to the following parties at the following addresses by placing the documents in the U.S. mail in the city of _____ with sufficient postage:

1. MN Bureau of Criminal ApprehensionCJIS-CCH-Court Orders/Petitions1430 Maryland Avenue EastSt Paul, MN 551062. Hennepin County Sheriff's OfficePSF- Records Manager401 South 4th Avenue, # 100Minneapolis, MN 554153. Public Safety, Office of theMinnesota Attorney General445 Minnesota Street Suite 1800St Paul, MN 551014. Hennepin County Attorney's OfficeAttention: Criminal Records300 South Sixth Street, C-2100Minneapolis, MN 554875. Henn. Co. Dept. of Comm. Corrections300 South Sixth Street A-1100Minneapolis, MN 55487

6. _____

7. _____

8. _____

Dated: _____

Sworn/affirmed before me this (Date): _____

Notary Public/Deputy Court Administrator

Signature *(Sign only in presence of notary or Court Deputy)*

Print Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____ / _____

County of Hennepin

Judicial District:

Fourth

Court File Number:

Case Type:

Criminal

State of Minnesota,

Plaintiff

vs.

**Order Concerning Sealing of Records
No Conviction**

Defendant

Date of Birth _____

On _____ (date), the Court considered the Petition for Expungement in the above matter.

Appearances were:

☐ Petitioner _____☐ County Attorney _____☐ Other _____☐ Waived _____

The Court finds:

1. The defendant was charged with the crime(s) of: _____
Description of charge and date of offense
2. The above entitled criminal action was determined in favor of the petitioner.
3. The defendant has petitioned for the sealing of all records relating to an arrest, indictment or information, trial or verdict.
4. The petitioner has established that he/she has not been convicted of a felony, either within or without the state, within ten years, before the verdict or finding of not guilty or the dismissal.
5. Proper notice ☐ has ☐ has not been given including notice to any victim if required.
6. The law enforcement agency or jurisdiction whose records would be affected ☐ has ☐ has not established by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record, as required in Minn. Stat. §609A.03, subd. 5(b).

IT IS ORDERED:

- ☐ 1. Petitioner's request for sealing of records is denied.
- ☐ 2. Petitioner's request for sealing of records is granted. All official records, including all records relating to the arrest, indictment or complaint, trial and dismissal, shall be sealed and the existence not disclosed without court order, except as authorized by law.
- ☐ 3. That for this offense only, all finger and thumb prints, photographs and other identification data except for DNA samples, and all copies of duplicates thereof, shall be sealed by the following departments upon being notified of this order by the court administrator:
- ☐ County Attorney
 - ☐ Attorney General Office
 - ☐ County Sheriff
 - ☐ Bureau of Criminal Apprehension
 - ☐ Correction/Probation
 - ☐ City Attorney Office_____
 - ☐ City Police Department_____
 - ☐ Other _____

NOTE: THIS ORDER IS STAYED FOR 60 DAYS, AND DURING ANY APPEAL. RECORDS WILL NOT BE SEALED UNTIL AFTER THIS TIME.

Dated: _____

Judge of District Court

State of Minnesota

District Court

County of Hennepin

Judicial District: Fourth

Court File Number:

Case Type: Criminal

State of Minnesota,

Plaintiff

vs.

**Order Sealing Record
Conviction**

Defendant/Petitioner

Date of Birth _____

**THE ABOVE-ENTITLED MATTER CAME BEFORE THE COURT UPON A PETITION FOR
EXPUNGEMENT IN THE ABOVE MATTER.**

APPEARANCES WERE:

- ☐ Petitioner _____
☐ County Attorney _____
☐ Other _____
☐ Waived _____

UPON THE FILES AND RECORDS, THE COURT FINDS:

1. On _____(date) in the District Court of _____County, the petitioner
☐ Entered a plea or was found guilty of the crime of _____
_____ and was sentenced pursuant to Minn. Stat. §152.18. -or-
☐ Entered a plea or was found guilty of _____
following certification or reference to district court for prosecution pursuant to Minn.
Stat. §260B.125.
2. Petitioner was not convicted of an offense that requires registration under Minn. Stat. §243.166.
3. The petitioner was discharged by the commissioner of corrections, or was placed on probation and
an order discharging the petitioner from probation has been filed and/or the proceedings dismissed.
4. Proper service ☐ has ☐ has not been given including notice to any victim(s) if required.
5. There ☐ is ☐ is not clear and convincing evidence that sealing the record would yield a benefit
to petitioner commensurate with the disadvantages to the public and public safety of: (1) sealing the
record; and (2) burdening the court and public authorities to issue, enforce, and monitor an
expungement order. {Minn. Stat. §609A.03, subd. 5(a)}

Upon the Findings of the Court and the files and records herein, IT IS ORDERED:

- ☐ 1. Petitioner's request for sealing of records is denied.
- ☐ 2. Petitioner's request for sealing of records is granted. All official records, other than the non-public record retained by the Bureau of Criminal Apprehension, including all records relating to arrest, indictment or complaint, trial, dismissal and discharge shall be sealed and their existence shall be disclosed only by court order, except as authorized by law.
- ☐ 3. This order restores the petitioner to the status occupied before the arrest. The petitioner will not be guilty of perjury for failure to acknowledge the arrest or proceeding in response to any inquiry made for any purpose.
- ☐ 4. The court administrator shall notify the following of this Order:

| | |
|------------------------------|---|
| _____ County Attorney | _____ County Sheriff |
| _____ City Police Department | _____ Bureau of Criminal Apprehension |
| _____ Attorney General | _____ Probation/Court Services Department |
| _____ City Attorney | |
- ☐ 5. The petitioner continues to be prohibited from possessing or otherwise dealing in firearms until ten years have elapsed since the sentence was discharged or the person was restored to civil rights.
- ☐ 6. Other: _____

NOTE: This order is stayed for 60 days, and during any appeal. The records will not be sealed until after this time.

Dated: _____

Judge of District Court